

I. Status of the claims

Claims 1-2, 7, 11, 14-15, 21-23, 27, 31, 34-37, 49, 50-82, 89, 91 and 93-97 are pending in this application. The current Office Action Summary did not identify claims 50-82 as pending. Those claims are pending and were withdrawn from consideration as indicated in the Office Action Summary of the Final Office Action dated January 29, 2004.

Regarding withdrawn claims 50-82, applicants made the following comments on page 20 of the Amendment Under 37 C.F.R. § 1.116, filed on May 4, 2004:

Claims 50-82 remain withdrawn from consideration. Claim 66 recites a pharmaceutical composition comprising a compound according to claim 27. Claim 66 should be examined together with the compound claims just as composition claim 49 has been. The remaining withdrawn claims recite methods of use and incorporate the subject matter of claim 1 or 27. Claims 1 and 27 are patentable over the reference cited by the Examiner as explained below. The rejoinder provisions of MPEP § 821.04 therefore require examination of the method of use claims in this application.

In the most recent Office Action, the Examiner stated that these comments were unclear, and the Examiner requested that applicants clarify their request.

Claims 50-82 are in fact withdrawn from consideration. Claims 50-65 and 67-82 are directed to methods of use. Claim 66 recites a pharmaceutical composition. Claim 66 should not have been withdrawn from consideration in the first place. The Office Action dated September 16, 2003, required restriction between Group I and Group II. Group I included compounds and a composition claim 49. Group II was intended to be directed to methods of use. See Office Action dated September 16, 2003, at page 2. In the Amendment filed on December 9, 2003, applicants elected the claims of Group I with traverse, and explained that claim 66 (directed to a composition) should have been included in Group I (which included composition claim 49). This would result in Group II being directed to methods of use as intended in the original restriction requirement. Applicants respectfully request that the Examiner acknowledge that claim 66 is included in Group I and

that it has been examined. Lastly, and as explained below, the compound claims of the invention are patentable in view of the art cited by the Examiner. As a result, the re-joinder provisions of MPEP § 821.04 now require examination of the method of use claims (claims 50-65 and 67-82) in this application.

II. Rejection under 35 U.S.C. § 102(e)

The Examiner rejected claims 1, 7, 11, 14-15, 23, 27, 31 and 34-37 under 35 U.S.C. § 102(e) as being unpatentable in view of a compound exemplified in col. 19, lines 5-20 and col. 106, lines 5-15 of U.S. Patent No. 6,376,512 to Jayyosi et al. In support of the rejection, the Examiner stated that "the teachings of Jayyosi et al. read on the claimed invention" when Ar I according to the invention is defined as an optionally substituted pyridyl ring. Applicants respectfully traverse this rejection.

The heterocyclic ring in the Jayyosi compound does not correspond to the Ar I heteroaryl group in the compounds of the invention. The heterocyclic ring in the Jayyosi compound is a quinoline ring, not an optionally substituted pyridyl ring as proposed by the Examiner. The definition of "heteroaryl" at page 12, lines 3-21 of the present specification differentiates a quinoline ring (page 12, line 18), a pyridyl ring (page 12, line 17) and any such ring that may be substituted (page 12, lines 6-8). Claims 1 and 27, the only independent claims in this application, recite a heteroaryl group Ar I being defined as one of several types of groups. The definition of Ar I does not, however, include it being a quinoline ring. The compounds disclosed in Jayyosi therefore do not anticipate the invention. The disclosure of the Jayyosi patent does not suggest the claimed compounds from an obviousness perspective either, as it does not suggest modifying the disclosed quinoline group to form any Ar I group recited in the present claims.

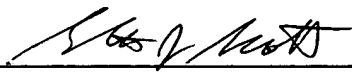
Applicants have already addressed essentially the same rejection earlier in prosecution of this application with Mr. Hong Liu as an Examiner. The Office Action dated September 16, 2003, rejected certain claims as being anticipated or obvious in view of the Jayyosi patent, especially in view of compounds disclosed at cols. 19-42, which includes the compound now cited by the present Examiner. In the Amendment of December 9, 2003, applicants explained that the compounds of the invention did not include Ar I defined as a quinoline group, and the subsequent Office Action dated January 29, 2004, did not maintain the rejections.

In view of the above remarks, applicants respectfully request that the Examiner acknowledge the allowability of the pending claims directed to compounds and compositions. Applicants also respectfully request that the Examiner re-join the method of use claims for examination. Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account no. 06-0916.

Respectfully submitted,

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